

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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BILL DRAFT 2019-SVfz-15 [v.3]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
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Short Title: Various Sales Tax Changes.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS SALES AND USE TAX CHANGES AS RECOMMENDED
3 BY THE REVENUE LAWS STUDY COMMITTEE.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** G.S. 105-164.13E(a)(7) reads as rewritten:

6 "(7) Any of the following animals:

7 a. Baby chicks and ~~poults sold for commercial poultry or egg~~
8 ~~production~~ poults.

9 b. Livestock."

10 **SECTION 1.(b)** G.S. 105-164.3 is amended by adding a new subdivision to read:

11 "(#) Livestock. – Cattle, sheep, goats, swine, horses, or mules."

12 **SECTION 1.(c)** G.S. 105-237.1(a) reads as rewritten:

13 "(a) Authority. – The Secretary may compromise a taxpayer's liability for a tax that is
14 collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the
15 best interest of the State and makes one or more of the following findings:

16 ...

17 (9) The taxpayer is an auctioneer licensed under Chapter 85B of the General
18 Statutes, and the assessment is for sales tax that the taxpayer failed to collect
19 for the sale of livestock at auction. The Secretary must determine that the
20 taxpayer has made a good-faith effort to comply with the tax laws, including
21 being registered as a retailer on or before July 1, 2020. This subdivision
22 applies to assessments for any tax due for a reporting period ending prior to
23 July 1, 2020. This subdivision does not apply if the person received specific
24 written advice from the Secretary for the transactions at issue for the laws in
25 effect for the applicable period or for tax collected and not remitted to the
26 Department."

27 **SECTION 1.(d)** G.S. 105-164.4J is amended by adding a new subsection to read:

28 "(j) Grace Period. – The Department shall take no action to assess any tax due for a filing
29 period beginning on or after February 1, 2020, and ending prior to July 1, 2020, if a person
30 conducted a sale of tangible personal property on behalf of the owner of the tangible personal
31 property for which the person was compensated, the sale was conducted at the owner's home or
32 farm, and regardless of whether the sale was conducted by auction or through the pricing of items.
33 This subsection does not apply in any of the following circumstances:



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- (1) The person received specific written advice from the Secretary for the transactions at issue for the laws in effect for the applicable period.
- (2) The person collected tax and failed to remit it to the Department."

SECTION 1.(e) Subsections (a) and (b) of this section become effective July 1, 2020, and apply to sales occurring on or after that date. The remainder of this section is effective when it becomes law.

SECTION 2.(a) G.S. 105-164.13(5o) reads as rewritten:

"(5o) Sales of equipment, or an accessory, an attachment, or a repair part for equipment, that meets all of the following requirements:

- a. Is sold to a large fulfillment facility-facility or to a contractor or subcontractor if the purchase is for use in the performance of a contract with the large fulfillment facility.
- b. Is used at the facility for any of the following purposes:
 1. ~~in~~ In the distribution process, which includes receiving, inventorying, sorting, repackaging, or distributing finished retail products.
 2. Baling previously used packaging for resale, sanitizing required by federal law, or material handling.

c. Is not electricity.

If the level of investment or employment required by G.S. 105-164.3(97)b. is not timely made, achieved, or maintained, then the exemption provided under this subdivision is forfeited. If the exemption is forfeited due to a failure to timely make the required investment or to timely achieve the minimum required employment level, then the exemption provided under this subdivision is forfeited on all purchases. If the exemption is forfeited due to a failure to maintain the minimum required employment level once that level has been achieved, then the exemption provided under this subdivision is forfeited for those purchases occurring on or after the date the taxpayer fails to maintain the minimum required employment level. A taxpayer that forfeits an exemption under this subdivision is liable for all past sales and use taxes avoided as a result of the forfeiture, computed at the applicable State and local rates from the date the taxes would otherwise have been due, plus interest at the rate established under G.S. 105-241.21. Interest is computed from the date the sales or use tax would otherwise have been due. The past taxes and interest are due 30 days after the date of forfeiture. A taxpayer that fails to pay the past taxes and interest by the due date is subject to the provisions of G.S. 105-236."

SECTION 2.(b) Refund. – A large fulfillment facility is allowed a refund of all State and local sales and use taxes paid on purchases of items eligible for exemption under G.S. 105-164.13(5o), as amended by this section, if the purchase was made on or after April 1, 2020, but before July 1, 2020. A request for a refund under this section must be in writing and must include any information and documentation required by the Secretary. A request for a refund under this section must be made on or after July 1, 2020, and is due before October 1, 2020. Refunds applied for after the due date are barred taxes for which a refund is allowed under this section are not an overpayment of tax and do not accrue interest as provided in G.S. 105-241.21.

SECTION 2.(c) This section becomes effective July 1, 2020, and applies to sales occurring on or after that date.